

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1029 - HB 1233

April 4, 2023

**SUMMARY OF BILL AS AMENDED (007140):** Creates an action known as a petition for a risk protection order that may be filed by a law enforcement officer, a law enforcement agency, or a district attorney general to allege that a named individual (respondent) poses a significant danger of causing personal injury to the respondent's self or others by having access to a firearm or ammunition. Requires such a petition to be filed with a court in the county in which the petitioner has jurisdiction or the county in which the respondent resides. Requires, upon notice and a hearing of the matter and if the court finds by clear and convincing evidence that the respondent poses a significant danger of causing personal injury to the respondent or others by having in the respondent's custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition, the court to issue a risk protection order for an appropriate period of up to 12 months. Authorizes the issuance of a temporary ex-parte risk protection order under certain circumstances. Establishes processes by which a petition must be filed, heard, and adjudicated. Establishes processes by which a risk protection order or temporary ex-parte risk protection order is to be ordered and implemented, including appeals, extensions, expirations, and terminations.

Requires, upon issuance of a risk protection order or temporary ex-parte risk protection order, the respondent to surrender to the local law enforcement agency all firearms and ammunition owned by the respondent or in the respondent's custody, control, or possession, and any handgun carry permits held by the respondent. Establishes processes for law enforcement and respondents by which such a surrender, and any subsequent return, is to occur. Requires all law enforcement agencies to develop policies and procedures regarding the acceptance, storage, and return of firearms, ammunition, and permits surrendered.

Creates a Class E felony offense for a person who acquires custody or control of a firearm or ammunition in violation of a risk protection order.

Requires the Administrative Office of the Courts (AOC) to create instructions, informational brochures, standard petitions, and risk protection order forms to inform and effectuate the petition and order processes, and to distribute the materials to all courts and clerks of court in the state.

Requires the Department of Safety (DOS) to create a reporting system to collect extreme risk referrals from certain individuals and transmit the referrals to the appropriate law enforcement agency and district attorney general for further investigation. Requires DOS to provide information on the department's website on how to submit an extreme risk referral. Requires

DOS to develop a media campaign to inform citizens on the referral program and the persons eligible to submit a referral.

Requires a local law enforcement agency or district attorney general that receives an extreme risk referral to conduct an appropriate inquiry to determine whether there are grounds to seek a risk protection order.

## **FISCAL IMPACT OF BILL AS AMENDED:**

**Increase State Expenditures – Exceeds \$694,400/FY23-24  
\$68,800/FY24-25 and Subsequent Years  
\$246,300 Incarceration**

Assumptions for the bill as amended:

- It is assumed that all law enforcement agencies and district attorneys general can comply with the requirements in the normal course of business utilizing existing resources.
- The state of Florida has similar laws in place which were enacted in 2018 and include a felony offense for a violation of a risk protection order. Based on a review of the number of charges brought in Florida for such offenses from 2019-2022 and adjusted for population according to the 2020 United States Census, the number of annual felony convictions in Tennessee for a violation of a risk protection order is estimated to be 22 convictions.
- The average time served for a Class E felony is 0.59 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 241,500	FY23-24
\$ 243,900	FY24-25
\$ 246,300	FY25-26

- Pursuant to Public Chapter 1007 of 2022, recurring cost increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$246,300 in FY23-24 and subsequent years.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- The AOC can create and distribute the required forms and information utilizing existing resources.
- Based on information provided by the Court Clerks Association and the AOC, any impact to the state and local court systems is estimated to be accommodated within existing resources.
- In order to build and manage the referral system, DOS will need to contract with a third-party vendor and will require one additional Administrative Secretary position.
- As provided by the vendor, the increase in expenditures to DOS to build the referral system is estimated to be \$380,000 in FY23-24.
- The increase in expenditures related to the additional position is estimated to be \$74,390 (\$47,304 salary + \$15,186 benefits + \$5,600 office setup + \$6,300 supplies and communication) in FY23-24.
- The increase in expenditures related to the additional position is estimated to be \$68,790 (\$47,304 salary + \$15,186 benefits + \$6,300 supplies and communication) in FY24-25 and subsequent years.
- Based on a recent public awareness media campaign on firearms conducted by the Tennessee Bureau of Investigation, the increase in expenditures to DOS to secure radio, television, and digital distribution of the campaign is estimated to exceed \$240,000 in FY23-24.
- The total increase in state expenditures is estimated to exceed \$694,390 (\$380,000 system + \$74,390 position + \$240,000 media campaign) in FY23-24.
- The increase in state expenditures is estimated to be \$68,790 in FY24-25 and subsequent years.
- All calculations used in completion of this fiscal note are available upon request.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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